

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

v.

03-CR-33-A

DANIEL RIVERA,

Defendant

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**PRELIMINARY ORDER OF FORFEITURE**

IT IS HEREBY ORDERED that as a result of the plea agreement entered into between the defendant, DANIEL RIVERA and the government, the defendant, DANIEL RIVERA, shall forfeit to the United States all his interest in:

- a. One .38 caliber Derringer pistol, bearing serial number L41841 pursuant to Title 18, United States Code, §§ 924(d) and 3665;
- b. Ten (10) rounds of .38 caliber ammunition pursuant to Title 18, United States Code, §§ 924(d) and 3665;
- c. \$20,252 United States currency seized by the Drug Enforcement on February 13, 2003 pursuant to Title 21, United States Code, § 853; and
- d. \$2,450 United States currency seized by the Drug Enforcement Administration on February 13, 2003 pursuant to Title 21, United States Code, § 853.

ORDERED, upon entry of this Order, this Preliminary Order of Forfeiture is now final as to the defendant and shall be made part of the sentence and included in the judgment. If no third party files a timely claim, this Order shall become the Final Order of Forfeiture, as provided by Fed. R. Crim. P. 32.2(c)(2); and it is further

Upon the entry of this Order, the Attorney General, through the United States Attorney's Office, is authorized to commence any applicable proceeding to comply with the statutes governing third party rights, including giving notice of this Order.

The United States shall publish notice of the order and its intent to dispose of the property in such a manner as the Attorney General may direct. The United States may also, to the extent practicable, provide written notice to any person known to have an alleged interest in the subject property.

Any person, other than the above named defendant, asserting a legal interest in the subject property may, within thirty days of the final publication of notice or receipt of notice, whichever is earlier, petition the court for a hearing without a jury to adjudicate the validity of his alleged interest in the subject property, and for an amendment of the order of forfeiture, pursuant to 21 U.S.C. § 853(n)(6).

Any petition filed by a third party asserting an interest in the subject property shall be signed by the petitioner under penalty of perjury and shall set forth the nature and extent of the petitioner's right, title or interest in the subject property, the time and circumstances of the petitioner's acquisition of the right, title or interest in the subject property, any additional facts supporting the petitioner's claim and the relief sought.

After the disposition of any motion filed under Fed. R. Crim. P. 32.2(c)(1)(A) and before a hearing on the petition, discovery may be conducted in accordance with the Federal Rules of Civil Procedure upon a showing that such discovery is necessary or desirable to resolve factual issues.

The United States shall have clear title to the subject property following the Court's disposition of all third party interests, or, if none, following the expiration of the period for filing third party petitions, as provided in 21 U.S.C. § 853(n)(2).

The Court shall retain jurisdiction to enforce this Order, and to amend it as necessary, pursuant to Fed. R. Crim. P. 32.2(e).

SO ORDERED.

s/ Richard J. Arcara  
HONORABLE RICHARD J. ARCARA  
CHIEF JUDGE  
UNITED STATES DISTRICT COURT

DATED: February 5, 2007